IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3005 OF 2006.

1. Mausam Ibrahim Sayyed
2. Khairati Mammu Irshad Ahmed. ..Applicants.

V/s

The State of Maharashtra ..Respondent.

Mr. S.P.Kadam i/b Mr. P.D. Jadhav for the applicants.
Mr. S.S. Pednekar, A.P.P. for the State.

CORAM : S.C. DHARMADHIKARI, J.

DATE : 28TH AUGUST, 2006.

P.C.

1. The applicants are apprehending arrest in connection with CR. No. 16/2006 registered with Talegaon Dabhale Police Station.

2. The prosecution has charged about 11 persons with commission of offences under section 3, 7 to 9 of the Essential Commodities Act and Sections 285 and 336 r/w section 34 of Indian Penal Code together with violation of control order.

3. The case of the prosecution in this FIR is, that the furnace oil, being removed was adulterated substance. A vehicle was apprehended and thereafter the

concerned persons viz. drivers and cleaners were arrested. There are about 12 tankers and another vehicle seized. As far as the applicants are concerned the charge is that the goods/materials in the tankers was to be sold to the present applicants.

4. Mr. Kadam appearing for applicants in support firstly, points out that the applicants have reported to the concerned police station, as per my order dated 18th August, 2006. He submits that the traders of the Oil whose names are set out in para 4 of the application are granted anticipatory bail by the learned Sessions Judge, Pune. He submits that as far as the drivers and cleaners are concerned, they have been arrested but enlarged on regular bail. He submits that the incident is of 27th March, 2006 and now the seizure as well as the recoveries are complete. In such circumstances, and when the applicants are ready and willing to abide by all conditions including furnishing of local sureties and reporting at Police Station as and when summoned, this court should grant anticipatory bail, more so when the applicants were enlarged on interim bail by the trial Court on 31st May, 2006, which was not confirmed on 21st June, 2006, but this Court has protected the

applicants as were not arrested.

5. Mr. Pednekar, the learned A.P.P. points out that the applicants are not cooperating completely in the investigation. As yet, the disclosure about the purchases are not forthcoming. In such circumstances and when the charge is of adulteration of furnace oil, which is a essential commodity, this court should not grant any pre-arrest bail.

6. After having perused the application and annexures thereto, so also hearing counse, in my view, once the learned A.P.P.does not dispute the fact that the concerned traders who are the accused as well have been enlarged on pre-arrest bail and the drivers and cleaners of the vehicles are granted regular bail and when the applicants are now reporting to the police station, no custodial interrogation would be necessary. Needless to state that this application is being considered only because the applicants have been reporting so also applicants being ready and willing to furnish local sureties. Hence, their application for bail after six months of the incident deserves to be granted.

i) In the event of the arrest of the applicants in connection with C.R. No.16/2006 registered with Talegaon Dabhade, Police Station, the applicants shall be enlarged on bail in the sum of Rs. 25,000/- each with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that that the applicants will attend Talegaon Dabhade police station twice a month between 10 a.m. to 1 p.m.

iii) The applicants not to be released unless they furnish proof of their residence and that they are carrying on business within the State of Maharashtra together with the licence and other relevant documents.

iv) Bail is granted subject to condition that the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. The applicants shall not tamper with the prosecution evidence.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) This order will ensure to the benefit of the applicants only till charge sheet is filed. Thereafter, they will be free to apply to the appropriate Court for appropriate relief.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

(S.C. DHARMADHIKARI, J.)